

REMARKS

This Supplemental Reply is filed to supplement applicant's Amendment mailed March 22, 2005, following an Examiner Interview on April 20, 2005. Previously presented claims 23-26, 28-33, 35-36 and 38-40 are pending. Previously presented claim 37 is hereby canceled, without prejudice. Previously presented claims 21-22, 27 and were canceled, without prejudice, by the Amendment mailed March 22, 2005. Original claims 1-20 were canceled, without prejudice, by the Preliminary Amendment mailed October 3, 2001. No new fees in excess of the original filing fees are due. No new matter is added.

The substance of the Interview included a discussion of how the invention is distinguishable over the reference of Rogers et al. The undersigned utilized the interview as an opportunity to amplify in person the Remarks written out in the Amendment mailed March 22, 2005.

Briefly, given an example scenario when users are replacing their Windows 98® to Windows XP®, owners of software games designed for outmoded Windows 98® earnestly desire re-tooled versions of the same game in Windows XP®. Rogers et al. set out to fight a form of fraud being practiced on big box retailers. That is, buyers buy the Windows XP® version of a game they already own in the Windows 98 version, keep the Windows XP® contents in the Windows XP® packaging, stuff their old Windows 98® product in the new Windows XP® packaging, and returned the old Windows 98® product disguised in the Windows XP® packaging on unsuspecting youthful sales employees of big box department store.

In other words, Rogers et al. is predominantly concerned with returns of product which a large department store which stocks as inventory. According to Rogers et al, these large department stores are being defrauded by a defrauding buyers that buy a recent-version product in its recent-version package, but then fraudulently return an outdated product in the recent-version packaging.

Rogers et al. have little to do with a network of diverse organizations, there being two distinct communities thereof. One community is a community of mail-order retailers, who do sell online because their goods are in such dispersed demand and there is no cost justification in

establishing a nationwide spread of walk-in retail stores. In other words, these retailers' goods are offered predominantly online and little where else.

Nevertheless, to give their buyers the comfort of a personal return process, these mail-order retailers thereby associate with retail mailbox stores to accept these mail-order retailers' buyers' returns. The retail mailbox stores accept the returns and reversing the charges on the credit card or whatever not so much for the modest fee it gets then but more for a chance to introduce the returning buyers to the virtues of doing business with that retail mailbox organization.

While here Rogers et al. has been characterized as an in-house "store-wide" solution only -- and not an alliance of small specialists who are aggregating their specialties to make a union whose sum is greater than the individual units -- to be fair to Rogers et al. it does have this to say about the (deceptive) application for return of merchandise bought from a competitor. However, it may be noted beforehand that at least the (deceptive) application for return of a competitor's merchandise to the given chain of stores practicing Rogers et al. is being made to a chain of stores which at least stocks such merchandise. Given the foregoing introduction, Rogers et al. recites as follows:

The right hand portion of Fig. 6 illustrates a situation where the product was purchased from a competitor and, thus, does not appear in the storewide database. After unsuccessfully searching the store-wide database, the retailer computer system dials up to search the manufacturer's national database. The manufacturer's computer system returns the date purchased, the name of the retailer that sold the product, the deadline for the retailer to return the product to the manufacturer for credit, and the deadline for warranty repairs. Based on this information from the manufacturer, the operator terminal 12 of the retailer computer system 6 displays the product description, the purchase location and date, and available consumer options. [Emphasis supplied.]
Col. 9., lines 4-16.

Query: "...available consumer options."? What does that mean?

Since Rogers et al. do not answer this question expressly, the only fair inferences which can be drawn for that answer are either (i) 'we are Wal-Mart® and you bought this at Circuit

City®, return your product there,' or else (ii) 'we are Wal-Mart®, we know you bought this at Circuit City®, but we'll accept this return' (eg., presumptively for Wal-Mart® store-credit only).

In any event, Rogers et al. only contemplate informing the large department store whether some other's store merchandise is being presented to it. That way, the large department store can handle the wrongfully-attempted return by making a decision to reject, or perhaps accept for a profit motive naturally enough. But nevertheless, the Rogers et al. system always assumes that the presentation for return is being made on a store which stocks such product.

It is an aspect of the invention that the return associates are famously in the business of not stocking the product which is being presented for return, nor anything like. The motivation of the return associates is to introduce consumers to the convenience of transacting business with retail mailbox stores.

As a result of the discussion, it was considered appropriate that the examiner would reserve the option to consider further in view of this Supplemental Reply if some independent claims were canceled and placed into dependent claims.

Applicant appreciates the attention the examiner gave to this case.

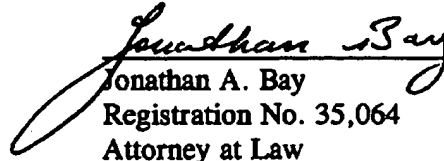
Accordingly, applicant has proceeded substantially as suggested. The dependent claim applicant selects as best fitting the purpose is claim 36. Hence independent claim 37, canceled hereby, has been re-written into claim 36. There have been general amendments to the portions which were originally claim 36 to better more particularly and distinctly define the subject matter of the invention and better distinguish over the prior art. That being said, the two other claim series headed off by independent claims 24 and 31 lacked a dependent claim which is counterpart to claim 36. Nevertheless, claims 24 and 31 have been amended to include some aspects at least which appear in claim 37.

Reconsideration of claims 23-26, 28-33, 35-36 and 38-40 is respectfully requested. Every effort has been made to particularly and distinctly define the subject matter of the invention. The claims are definite, and are patentable over the prior art of record. The differences between the

invention and the prior art are such that the subject matter claimed as a whole would not have been known or obvious to a person of ordinary skill in the art. Reconsideration, and allowance of all the pending claims, are respectfully requested.

Respectfully submitted,

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